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EXAMINER

HOANG, HIEU T

ART UNIT	PAPER NUMBER
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2152

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/652,330

Applicant(s)

ELZUR ET AL.

Examiner

Hieu T. Hoang

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 05/13/04, 09/29/06.
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to the communication filed on 08/29/2003.
2. Claims 1-35 are pending and presented for examination.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

4. Claim 18 of the current application (hereafter '330) is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 18 of copending Application No. 10/652,327 (hereafter '327). Although the conflicting claims are not identical, they are not patentably distinct from each other

because both of the claims recite using a single fabric for a plurality of different types of traffic ((a) of '330 and (c) of '327), and handling a plurality of different types of traffic via a single layer 2 (L2) connector ((b) of '330 and (a) of '327).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claim 26 of the current application is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 18 of '327. Although the conflicting claims are not identical, they are not patentably distinct from each other because both of the claims recite using a single chip to process a plurality of different types of network traffic (line 2 of '330 and (b) of '327), and an Ethernet connector coupled to the integrated chip that handles a plurality of different types of traffic (lines 3-5 of '330 and (a) of '327).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 18, 20, 22-29, 31 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Philbrick et al. (US 2001/0037406, hereafter Philbrick).

8. For claim 18, Philbrick discloses a server, comprising:

- an integrated chip (fig. 6, processor 408);
- an Ethernet connector coupled to the integrated chip ([0066] lines 12-15, Ethernet connector 424 which is a MAC controller), wherein the Ethernet connector and the integrated chip can handle a plurality of different types of traffic ([0065] lines 15-21, iSCSI and TCP/IP).

9. For claim 20, Philbrick further discloses the server has a single Internet protocol (IP) address ([0053] IP address).

10. For claim 22, Philbrick further discloses the Ethernet connector handles the plurality of different types of traffic over a single fabric (fig. 6, single path from Ethernet connector 424 to processor 408).

11. For claim 23, Philbrick further discloses the Ethernet connector comprises a single Ethernet connector (fig. 6, single Ethernet connector 424).

12. For claim 24, Philbrick further discloses the integrated chip comprises a single integrated chip (fig. 6, single chip 408).

13. For claim 25, Philbrick further discloses the plurality of different types of traffic comprises at least two of network traffic, storage traffic, interprocess communication (IPC) traffic and cluster traffic ([0065] lines 15-21, network traffic TCP/IP and storage traffic iSCSI).

14. For claim 26, Philbrick discloses a method for communicating with a server, comprising:

(a) using a single fabric for a plurality of different types of traffic (fig. 6, single path from a Ethernet connector 424 to processor 408); and

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(b) handling the plurality of different types of traffic via a single layer 2 (L2) connector of the server ([0065] lines 15-21, network traffic TCP/IP and storage traffic iSCSI).

15. For claim 27, Philbrick further discloses the single fabric comprises an Ethernet-based fabric ([0065], Ethernet-SCSI fabric).

16. For claim 28, Philbrick further discloses the single fabric comprises a transport protocol/network protocol-based fabric ([0065] lines 15-21, network traffic TCP/IP).

17. For claim 29, Philbrick further discloses (b) comprises accessing a storage device via the single L2 connector ([0065] lines 15-21, storage traffic iSCSI).

18. For claim 31, Philbrick further discloses (b) comprises accessing a network via the single L2 connector ([0065] lines 15-21, network traffic TCP/IP).

19. For claim 32, Philbrick further discloses (b) comprises handling the plurality of different types of traffic via an Ethernet connector of the server ([0065] lines 15-21, network traffic TCP/IP and storage traffic iSCSI).

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (background of the invention and fig. 1-5, hereafter AAPA) and further in view of Philbrick.

22. For claim 1, AAPA discloses a data center, comprising:

- a first tier comprising a first server; a second tier coupled to the first tier, the second tier comprising a second server; and a third tier coupled to the second tier, the third tier comprising a third server (fig. 1, servers A, B, and C connected in three tiers)

AAPA does not disclose:

- wherein at least one of the first server, the second server and the third server handles a plurality of different traffic types over a single fabric.

However, Philbrick discloses:

- wherein at least one of the first server, the second server and the third server handles a plurality of different traffic types over a single fabric (fig. 6, a server handles iSCSI and TCP/IP over a single fabric connecting the Ethernet connector 424 and processor 408).

Therefore, it would have been obvious for one skilled in the art at the time of the invention to combine the teachings of AAPA and Philbrick to apply multiple traffic support over one fabric of Philbrick to the three-tier servers of AAPA to conserve resources (Philbrick, [0065], lines 1-4, storage traffic and network traffic without the need of a specialized connector).

23. For claim 2, AAPA-Philbrick discloses the invention as in claim 1. AAPA-Philbrick further discloses the first server handles at least network traffic and direct attached storage (DAS) traffic over the single fabric (Philbrick, [0065] lines 15-21, DAS traffic or SCSI).

24. For claim 3, AAPA-Philbrick discloses the invention as in claim 1. AAPA-Philbrick further discloses the first server uses a single controller for handling at least network traffic and DAS traffic (Philbrick, fig. 6 single processor on a single intelligent network interface controller INIC).

25. For claim 4, AAPA-Philbrick discloses the invention as in claim 1. AAPA-Philbrick further discloses the second server handles at least two of network traffic, storage traffic and cluster traffic over the single fabric (Philbrick, [0065] lines 15-21, network traffic TCP/IP and storage traffic iSCSI).

26. For claim 5, AAPA-Philbrick discloses the invention as in claim 1. AAPA-Philbrick further discloses the second server uses a single controller for handling at least two of network traffic, storage traffic and cluster traffic (Philbrick, fig. 6, single processor on a single intelligent network interface controller INIC).

27. For claim 6, AAPA-Philbrick discloses the invention as in claim 5. AAPA-Philbrick further discloses storage traffic comprises traffic from a redundant-array-of-independent-disks (RAID) configuration or traffic from storage devices accessible via a network (Philbrick, [0011], RAID).

28. For claim 7, AAPA-Philbrick discloses the invention as in claim 1. AAPA-Philbrick further discloses the second tier comprises an application tier (AAPA, [05] line 8).

29. For claim 8, AAPA-Philbrick discloses the invention as in claim 1. AAPA-Philbrick further discloses the third server handles at least two of network traffic, storage traffic and cluster traffic over the single fabric (Philbrick, [0065] lines 15-21, network traffic TCP/IP and storage traffic iSCSI).

30. For claim 9, AAPA-Philbrick discloses the invention as in claim 1. AAPA-Philbrick further discloses the third server uses a single controller for handling at least two of network traffic, storage traffic and cluster traffic (Philbrick, fig. 6, single processor on a single intelligent network interface controller INIC).

31. For claim 10, AAPA-Philbrick discloses the invention as in claim 1. AAPA-Philbrick further discloses the single fabric is based upon a layer 2 (L2) protocol (Philbrick, fig. 6, single fabric has a MAC controller).

32. For claim 11, AAPA-Philbrick discloses the invention as in claim 1. AAPA-Philbrick further discloses the single fabric is based upon an Ethernet (Philbrick, fig. 12, 13, Ethernet stack).

33. For claim 12, AAPA-Philbrick discloses the invention as in claim 1. AAPA-Philbrick further discloses the single fabric is based upon a transport/network protocol (Philbrick, fig. 12, 13, TCP stack).

34. For claim 13, AAPA-Philbrick discloses the invention as in claim 12. AAPA-Philbrick further discloses the transport/network protocol comprises a transmission control protocol/Internet protocol (TCP/IP) (Philbrick, fig. 13, TCP/IP).

35. For claim 14, AAPA-Philbrick discloses the invention as in claim 1. AAPA-Philbrick further discloses at least one of the first server, the second server and the third server uses an Internet small computer system interface (iSCSI) protocol in communicating with storage (Philbrick, [0065] line 19, iSCSI over TCP).

36. For claim 15, AAPA-Philbrick discloses the invention as in claim 1. AAPA-Philbrick further discloses the iSCSI protocol runs on top of TCP/IP (Philbrick, [0065] line 19).

37. Claims 33-35, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Philbrick as applied to claim 26 above, and further in view of Microsoft (03/03/2001, Winsock Direct and Protocol Offload on SANs, download.microsoft.com/download/1/6/1/161ba512-40e2-4cc9-843a-923143f3456c/WinsockDirect-ProtocolOffload.doc).

38. For claim 33, Philbrick discloses a method for communicating in a data center, comprising:

(a) accessing a storage system over a single fabric ([0065] lines 15-21, network traffic TCP/IP and storage traffic iSCSI);

(c) accessing a network over the single fabric ([0065] lines 15-21, network traffic TCP/IP and storage traffic iSCSI).

Philbrick does not explicitly disclose (b) accessing a cluster over the single fabric.

However, Microsoft discloses (b) accessing a cluster over the single fabric (fig. 2, page 5 lines 7-8, RDMA support for clustering traffic, RDMA running over TCP/IP).

Therefore, it would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Philbrick and Microsoft to further provide more functions such as RDMA support on a iSCSI enabled NIC of Philbrick.

39. For claim 30, the claim is rejected for the same rationale as in claim 33.

40. For claim 34, Philbrick-Microsoft discloses the invention as in claim 33. Philbrick-Microsoft further discloses (a), (b) and (c) are performed over a single Ethernet connector of a server in the data center (Philbrick, fig. 6, single Ethernet connector 424).

41. For claim 35, Philbrick-Microsoft discloses the invention as in claim 33. Philbrick-Microsoft further discloses the single Ethernet connector has a single Internet protocol (IP) address (Philbrick, [0053] IP address).

42. Claims 16, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA-Philbrick, as applied to claims 1 and 14 above, and further in view of Microsoft.

43. For claim 17, AAPA-Philbrick discloses the invention as in claim 1. AAPA-Philbrick does not disclose at least one of the first server, the second server and the third server uses an RDMA for interprocess communication.

However, Microsoft discloses (b) accessing a cluster over the single fabric (fig. 2, page 5 lines 7-8, RDMA support for clustering traffic, RDMA running over TCP/IP).

Therefore, it would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Philbrick and Microsoft to further provide more functions such as RDMA support on a iSCSI enabled NIC of Philbrick.

44. For claim 16, the claim is rejected for the same rationale as in claim 17.

45. Claims 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Philbrick, in view of what has been known in the art.

46. For claim 19, Philbrick discloses the invention as in claim 18. Philbrick does not explicitly disclose the server comprises a blade server, and wherein the integrated chip is part of a blade mounted in the blade server.

However, it is well known that the server comprises a blade server, and wherein the integrated chip is part of a blade mounted in the blade server.

Therefore, it would have been obvious for one skilled in the art at the time of the invention to apply Philbrick to a blade server system to make use of advantages of a blade server system such as high space density.

47. For claim 21, the claim is rejected for the same rationale as in claim 19.

Conclusion

48. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Starr et al. US 6,807,581. Network storage interface card.
- Hayes. US 2003/0046330. Selective offload.

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- Hendel et al. US 7,142,540. Zero-copy receive buffer management.
- Barrall et al. US 2002/0065924. Hardware acceleration of OS.
- Matters et al. US 6,988,150. System area network.
- Muhlestein et al. US 7,194,519. Filers.
- Cheriton et al. US 6,675,200. Protocol independent support of RDMA.
- Boyd et al. US 2004/0010674. Spilt socket stack.
- Karpoff. US 2001/0049740. Multimedia on demand over WAN.
- Li et al. US 2004/0213205. Voice packet switching.

49. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu T. Hoang whose telephone number is 571-270-1253. The examiner can normally be reached on Monday-Thursday, 8 a.m.-5 p.m., EST.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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7/19/7
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